

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

**In re FEDEX GROUND PACKAGE
SYSTEM, INC., EMPLOYMENT
PRACTICES LITIGATION**

) Case No. 3:05-MD-527-RM
) (MDL 1700)

) Judge Robert L. Miller Jr.
)

THIS DOCUMENT RELATES TO:

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)
) *Caroline Craig et. al. v. FedEx Ground*
) *Package Systems, Inc.,*
) Civil No. 3:05-cv-0530-RLM-CAN (KS)

)
) *Michael Tofaute, et. al. v. FedEx Ground*
) *Package Systems, Inc.,*
) Civil No. 3:05-cv-0595-RLM-CAN (NJ)
)

**JOINT MOTION FOR AN EXTENSION OF TIME FOR SECOND ROUND
DISTRIBUTION OF SETTLEMENT PAYMENTS, TO SUBMIT LIST OF
CLASS MEMBERS AND AUTHORIZATION TO USE RESERVE FUNDS
TO COMPENSATE AN INVESTIGATOR**

The Class Action Settlement Agreements (“Agreements”) that resolved the above referenced cases – which received final approval from this Court in its orders entered June 21, 2017 (*Craig* – Kansas) and May 22, 2017 (*Tofaute* – New Jersey) – provide for two distribution rounds of settlement payments to class members. First Round distribution checks were mailed by the Settlement Administrator, Rust Consulting, to the last known addresses of all *Craig* class members on or about August 24, 2017 and to all *Tofaute* class members on or about November 3, 2017.¹ The final approval orders in both cases also required FedEx Ground to submit, within

¹ The *Tofaute* judgment became final on or about October 20, 2017 when the appeal taken by several of the named plaintiffs to the Seventh Circuit was voluntarily dismissed and mandate issued. *See* Doc. 3177.

220 days of the applicable order, a list of those class members who were not previously identified, and who would be entitled to make a claim against the applicable Reserve Fund. The stale date on the First Round checks in *Craig* is February 20, 2018 and in *Tofaute* is May 2, 2018. The Agreements require a Second Round distribution of settlement checks to be made to all those class members who cashed their First Round checks with the funds remaining in the Qualified Settlement Funds.

As of February 15, 2018, approximately 223 of the *Craig* and *Tofaute* class members had not yet cashed their settlement checks. Approximately 144 of these uncashed checks have a dollar value greater than \$5000, with an aggregated dollar value of \$2.892 M. If the present schedule is not amended, the value of the checks issued to the missing class members will be redistributed in the second round along with the Reserve Fund.

The Co-Lead counsel have engaged in extensive efforts to locate missing class members who have not yet cashed their settlement checks with a high degree of success. The Co-Lead counsel believe that it would be fair and reasonable to continue and intensify efforts for several additional months – to June 30, 2018 – before redistributing the unclaimed funds, and propose to engage an investigator to assist them in that effort who would be compensated from the Reserve Funds also provided for in the Settlement Agreements. The investigator, PeopleFinder, Inc., receives a fee of \$250 for each person located, but no compensation for unsuccessful efforts. PeopleFinder has been very successful in locating and assisting missing class members in claiming their settlement proceeds in the other 18 settled cases.

Accordingly, the Co-Lead Counsel respectfully requests that the Court enter an order to (1) extend time for the Settlement Administrator to distribute and pay funds remaining in the Net Settlement Fund and Reserve Fund in the *Craig* and *Tofaute* matters to eligible class members

who cashed their first-round settlement payments to **June 30, 2018**, and for FedEx Ground to submit the final list of additional class members to **May 16, 2018**, and (2) authorize payment of reasonable compensation to an investigator of their choice to assist in locating missing class members from the Reserve Funds established in the applicable constituent case.

Dated: February 21, 2018

Respectfully submitted,

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/s/

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